

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

ANGEL D. MORALES VALLELLANES

Plaintiffs,

v.

JOHN E. POTTER, et. al.

Defendants

CIVIL NO. 97-2459 (JAG/GAG)

**OPPOSITION TO PLAINTIFF'S MOTION TO EXCLUDE EXPERT  
WITNESS**

TO THE HONORABLE COURT:

COMES NOW the Defendant and through the undersigned attorneys respectfully opposes Plaintiff's Motion to Exclude Expert Witness Testimony (Docket Entry No. 289) grounded on the following:

1. Plaintiff's allegations that Defendant's Expert witness, Dr. Ramón Fortuño, be excluded from testifying herein because of "tardiness" is to say the least, absurd.
2. After various previous incidents related to Plaintiff's contumacious conduct in complying and producing discovery materials (See Docket Entries No. 225, 229, 230, 232, 235, 238, and 248), this Honorable Court, at Docket Entry No. 286, granted the Plaintiff a **final** term, or until July 1, 2006, within which to provide the Defendant with Dr. Hoyos' expert witness report. The report, however, was, in fact, provided to Defendant on July 3, 2006 or **two days late**. If timeliness is the issue Plaintiff is estopped from raising it. Time and time again he

has failed to timely submit discovery materials to lastly include, Dr. Hoyos' expert witness report; this time in clear violation of this Court's Order at Docket Entry No. 286. By the date of May 12, 2006, (Docket Entry No. 280) the plaintiff was **nowhere** near in submitting the required Dr. Hoyos' report and the same was submitted late as previously stated. It was not until July 3, 2006, that the Defendant **finally** became aware of Dr. Hoyo's Report and proceeded to route it to its own expert witness to properly evaluate the same.

Plaintiff's Psychiatric examination is to be conducted this Monday, September 11, 2006, at 1:00 pm. Plaintiff has long known of this appointment. Now, at the eleventh hour and on the eve of the examination, he files his Motion to Exclude. It is not only late, but groundless and frivolous. Discovery is to end on September 30, 2006, pursuant to the Court's Order at Docket Entry No. 280. Plaintiff's examination in no way affects this Court's Docket nor the pending Pre Trial and Trial settings.

WHEREFORE, the Defendant respectfully requests from this Honorable Court that it deny Plaintiff's Motion to Exclude Expert based on the foregoing.

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the foregoing document was filed with the Clerk of the Court using CM/ECF system, which will submit notification of such filing to: Miguel Miranda, Esq.

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RESPECTFULLY SUBMITTED in San Juan, Puerto Rico this 8<sup>th</sup> day of  
September 2006.

**H.S. GARCIA**  
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